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THE USAID-TIJARA PROVINCIAL ECONOMIC GROWTH PROGRAM

# INVESTOR GUIDE OF KIRKUK



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The USAID-*TIJARA* PROVINCIAL ECONOMIC GROWTH PROGRAM

# INVESTOR GUIDE OF KIRKUK

This guide provides information of the procedures required on how to establish a project or any other investment project in Kirkuk province. It includes guidance on obtaining licenses and permits as well as other information useful to investors.

## **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the U.S. Agency for International Development (USAID) or the United States Government.

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# ACRONYMS

CBI	Central Bank of Iraq
CPA	Coalition Provisional Authority
CPI	Commission of Public Integrity
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
FZ	Free Zone
FZL	Free Zone Authority Law
GATT	General Agreement on Tariffs and Trade
GCIC	General Commission of Iraq Customs
GDID	General Directorate of Industrial Development
GDP	Gross Domestic Product
GDRER	General Directorate for Real Estate Registration
GoI	Government of Iraq
GTC	General Taxation Commission
ICI	International Compact with Iraq
IDA	Industrial Development Authority (same as GDID above)
IFC	International Finance Corporation
IG	Inspector General
ILO	International Labor Organization
IMF	International Monetary Fund
INIC	Iraq National Investment Commission
IP	Investment Promotion
IQD	Iraqi Dinar
IPPA	Investment Promotion and Protection Agency
IPR	Intellectual property rights
ISC	Iraq Securities Commission
ISO	International Organization for Standardization
ISX	Iraq Stock Exchange
KRG	Kurdish Regional Government
MENA	Middle East & North Africa
MIGA	Multilateral Investment Guarantee Agency
MIM	Ministry of Industry and Minerals
MoLSA	Ministry of Labor and Social Affairs
MoPDC	Ministry of Planning and Development Cooperation
MoT	Ministry of Trade
NGOs	Non Governmental Organizations
NIC	National Investment Commission
OCR	Office of Company Registration
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
OSS	One Stop Shop
PIC	Provincial Investment Commission
RCC	Revolutionary Command Council
SME	Small & Medium Enterprises
SOE	State Owned Enterprise
TBT	Technical Barriers to Trade
TRIPS	Trade Related Aspects of Intellectual Property Rights
UNCITRAL	United Nation Commission on International Trade Law
USAID	United States Agency for International Development

WCO  
WIPO  
WTO

World Customs Organization  
World Intellectual Property Organization  
World Trade Organization



# 1. INTRODUCTION ON IRAQ AND KIRKUK

## BACKGROUND OF KIRKUK INVESTMENT COMMISSION (KIC)

The national investment commission was established under law no. 13 of 2006, published in the official gazette number 4031 on 17/1/2007. According to this law all governorates established local investment bodies associated with the governor and subject to the control of the provincial council.

### Objectives

Kirkuk Investment Commission aims to contribute to the advancement of investment and development in the province of Kirkuk particular and in Iraq in general, through the advancement of the economic reality of the province, and associated with such process, the development at all levels of social, cultural and civilization through the following:

- Create investment opportunities in the province by preparing investment map of the province.
  - Provide an attractive investment environment
  - Seek to improve conditions for local and foreign investment
  - Identify business trends in the field of investment, to ensure the public interest.
- Play a key role in overcoming the obstacles to investment in Iraq.

### VISION

Investment enables huge potential for economic growth and provides support to the role of the government in development. The Commissions works to ensure the success of investment projects that contribute significantly in serving the community. Therefore, the interests of the investors is the subject of much attention by the fact that investment is a valuable contribution in the service of public interests, and the success of investment is a noble goal is raising living standards in the country. The Commission gives great interest to ideas that help speed development, as well as investment opportunities that contribute to the acceleration of running-up of productive investment projects and development of the country through overcoming difficulties and obstacles that face the investment process, as well as using the power of domestic and foreign capital, the transfer of new technology, creating job opportunities to reduce or limit unemployment in the country and create a spirit of competition and focus on the development of Iraq

### GEOGRAPHY

Iraq is located in the Middle East, bordering the Arab Gulf, between Iran; Turkey; Syria; Jordan; Saudi Arabia; and Kuwait.

### LAND BOUNDARIES

Total: 3,650 km; border countries: Iran 1,458 km, Jordan 181 km, Kuwait 240 km, Saudi Arabia 814 km, Syria 605 km, Turkey 352 km.



## AREA OF IRAQ

Total: 437,072 sq km; land: 432,162 sq km; water: 4,910 sq km.

## AREA AND LOCATION OF KIRKUK PROVINCE

The area of Kirkuk is 9679 sq.km and represents about 2.2% of the total area of Iraq. The town of Kirkuk is situated in the north central part of Iraq, and is far from the capital Baghdad about 250 km. Kirkuk province is surrounded by Erbil province on the north, Sulaimaniya province on the east, Salah al-Din province on the south, and Nineveh province on the west.



## ADMINISTRATIVE DIVISION

Kirkuk province is divided administratively into four districts:

- Kirkuk qadha
- Daquq qadha
- Dibis qadha
- hawija qadha



## INFORMATION ABOUT KIRKUK PROVINCE

Kirkuk is one of the governorates of Iraq, Inhabited by Kurds, Arabs, Turkmen, and Assyrians. Kirkuk is known for its oil production, with six oil fields, the largest in Kirkuk with oil reserves that reaches more than 10 billion barrels. Oil is exported through the northern oil pipeline through the Northern pipeline to the Turkish ports of Ceyhan and Cook.

The city of Kirkuk is one of the ancient cities with an early appearance dating back to the second millennium before Christ, where it was mentioned in Acadian literature by the name of (Eraboukha). This city has retained its importance to economic and geographical map of Mesopotamia throughout the ages.

The basic properties of the Kirkuk province to this day are:

- The composition of the population, which has always been home to national and religious coexistence among different races and creeds of the Kurds, Arabs, Turkmen, Armenians and Caldo-assyrians.
- Its high economic importance, especially after the discovery of oil in 1927, which is one of the largest oil reserves in the world. Kirkuk is also called the city of black gold because of the oil. Tongues of flames rising from the fields of (Baba Kurkur), which was called in ancient times “eternal fire” and entered the legends of the peoples who settled the region through the ages.
- This province still retains a lot of monuments that attest to the long history, of which is the ancient castle, which lies in the center of Kirkuk city. It dates back to the Assyrian era. There are also a lot of sites un-excavated across the province.
- This province is characterized by fertile soil, as it contributes mainly in the production of grain and cotton, in addition to a variety of other crops. Some depend on rain, as well as those lands watered by the Lower Zab River.

## ECONOMIC PROFILE:

- Kirkuk is one of the centers of the Iraqi petroleum industry, and is connected by pipelines to ports on the Mediterranean Sea. Kirkuk has over 10 billion barrels of remaining proven oil reserves. In 2003, Kirkuk still produced up to one million barrels a day, about half of Iraqi exports.
- Petrochemical processing.
- Agriculture is also important

## FACTS ABOUT KIRKUK:

- **International borders:** None
- **Capital:** Kirkuk
- **Other large towns:** Haweeja, Dibis, and Dakuk
- **Major Industries:** Oil, cement
- **Potential areas for investment:** Plastics and other petrochemical products, hand-woven carpets , agriculture and livestock
- **Education:** Kirkuk University was established in 2002, and in 2003 had 1800 students enrolled in its colleges of law, nursing, science (computer science, mathematics, biology), and languages. In addition, Kirkuk province boasts 145 secondary schools, 16 vocational schools (the domestic arts, technical and commercial), and 2 teacher training institutes. There are 19 libraries in Kirkuk.
- **Health:** Kirkuk has 8 hospitals and 26 public medical clinics. There are nearly 1200 hospital beds in Kirkuk.
- **Infrastructure:** Kirkuk is one of the centers of Iraq's oil industry, and thus many roads converge on the city. Kirkuk can be reached from Baghdad by two major road routes, either going northwest via Samarra and Tikrit, or northeast through western Diyala province. Major roads also lead north from Kirkuk to Mosul, Erbil and Sulaymaniyah. Several of Kirkuk's inter-village roads were paved in 2005, transforming them from dirt roads into paved, two-lane asphalt roads.

Iraq's major north-south rail line reaches Kirkuk from Baghdad via Bayji. The Kirkuk railway station received a major renovation in 2005.

There is an airfield at Kirkuk Airbase. The Mullah Abdullah power station, in disrepair after decades of neglect, was put back on line in August 2004 and now provides power to 51,000 homes in Kirkuk.

- **Tourist attractions:** Kirkuk city is built on the Khasa River, near the foot of Zagros Mountains. The city stands on the site of the ancient city of Arrapha, which reached great prominence in the 10th and 11th centuries under the Assyrian dynasty.

## PEOPLE

### Population of Iraq:

32,105,000<sup>1</sup>

### KIRKUK PROVINCE POPULATION

Statistical estimates indicate that the population of the province of Kirkuk in 2008 reached about 1,195,925 people, representing more than 3.7% of the population of Iraq.

### PROVINCE LABOUR FORCE

730,000.

## ECONOMY

Iraq has undergone a difficult period of both oppression and upheaval over the past three decades. Ravaged by wars and unsafe security situation after 2003, the country's economy and infrastructure have languished and fallen into disrepair.

Decreased insurgent attacks and an improved security environment are helping to spur economic activity, particularly in the retail sector. Broader economic improvement, long-term fiscal health, and sustained increases in standard of living still depend on the government passing major policy reforms. Iraq's economy is dominated by the oil sector, which provides over 90% of government revenue and foreign exchange earnings. Oil exports have returned to levels seen before 2003 and government revenues have rebounded along with global oil prices since mid-2009. Iraq is making modest progress in building the institutions needed to implement economic policy. Iraq has held serious discussions with both the IMF and World Bank for new programs that would help further strengthen Iraq's economic institutions. The Iraqi government is seeking to pass laws and undertake economic, legislative, and administrative reforms to strengthen the economy and improve the business environment

**GDP:** \$134.0 billion at purchasing power parity (2010 est.)

**GDP - per capita** \$3,800 at purchasing power parity (2010 est.)

**GDP - composition by sector:** agriculture: 9.7%, industry: 63%, services: 27.3% (2010 est.)

**Labor force:** 8.5 million (2009 est.)

**Unemployment rate:** 15.3%, (2009 est.)

**Population below poverty line:** 25% (2008 est.)

**Inflation rate (consumer prices):** 4.2% (2009 est.)

**Budget:** revenues \$52.8 billion; expenditures \$72.4 billion (2010 est.)

**Agriculture - products:** wheat, barley, rice, vegetables, dates, cotton; cattle, sheep, poultry

**Industries:** petroleum, chemicals, textiles, leather, construction materials, food processing, fertilizer, metal fabrication/processing

**Industrial Production Growth Rate:** 4.8% (2010 est.)

**Electricity** (2009 est.):

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<sup>1</sup> 2008 estimates of the Central Statistical Organization and Information Technology (COSIT) at the Ministry of Planning and Development Cooperation (MoPDC).

- Production – 46.39 billion kWh
- Consumption – 52 billion kWh
- Electricity Imports – 5.6 billion kWh

**Oil** (2009 est.):

- **Production:** 2.399 million bbl/day
- **Exports:** 1.91 million bbl/day
- **Imports:** 116,900 bbl/day

**Oil - proved reserves:** 115 billion bbl (1 January 2010 est.)

**Natural Gas** (2008 est.):

- **production:** 15.66 billion cubic meters
- **Consumption :** 9.454 billion cubic meters

**Natural Gas - proved reserves:** 3.17 trillion cubic meters (1 January 2010 est.)

## **Transport and Communications in KIRKUK**

- There are advanced wire and wireless communications and three mobile networks and internet connections.
- The access to Kirkuk from Baghdad is made via two main routes, either through the north-west passing by Samarra and Tikrit or through the north-east by passing through the province of Diyala. There are also roads from the north (Mosul and Erbil, and Sulaymaniyah) up to Kirkuk

# 2. THE INVESTMENT ENVIRONMENT

## INTRODUCTION

Iraq is now on the path to establishing laws and regulations intended to attract foreign investment and rebuild the economy.

Substantial progress has already been made to remove some of the obstacles to open up the market and to develop an investor-friendly business environment. Inflation had been substantially decreased and the value of the currency has been stabilized. Iraq has an open trade and investment regime with a focus on strengthening the private sector.

The government has made rejoining the international community a key part of its economic development strategy, and investment will play a key role. Iraq's National Development Strategy for 2005-2007 and that for 2007-2010 and the Economic Development Plan 2010-2014 as well as the International Compact with Iraq articulate this new direction. Several goals outlined in these strategies include ensuring private sector growth through creation of a favorable legal environment, fostering a transition to a modern free market economy, and integrating Iraq into the global economy.

## OPENNESS TO FOREIGN INVESTMENT

Several laws that went into effect since 2003 improved Iraq's business environment and changed the legal regime with respect to attracting foreign investment, giving foreign investors national treatment with regard to their investments:

- Trade Liberalization Policy Law No. 54 of 2004
- The Central Bank Law No. 56 of 2004
- Law No. 64 of 2004, Amending Company Law No. 21 of 1997
- Interim Law on Securities Market No. 74 of 2004
- Law No. 80 of 2004, Amending Trademarks and Descriptions Law no. 21 of 1957
- Patent, Industrial Design, Undisclosed Information, Integrated Circuits And Plant Variety Law No. 81 of 2004
- The Banking Law No. 94 of 2004
- Insurance Regulatory Law No. 10 of 2005
- Investment Law No. 13 of 2006
- Kurdistan Region Investment Law No. 4 of 2006
- Private Investment In Crude Oil Refining Law No. 64 of 2007

## PREVAILING IRAQI INVESTMENT LAWS AT A GLANCE

The new Iraqi investment law No.13 of 2006 passed by the Iraqi parliament in October 2006 and came into force on January 17, 2007, regulates the national and foreign investment

process in Iraq. Investments less than USD 250,000 or equivalent in IQDs are not covered by this law.<sup>2</sup>

The Iraq Kurdistan Region Government (KRG) has also issued its own investment law for the Region under number 4 for 2006.

Iraqi Investors in the industrial sector have the choice to apply to the National Investment Commission to be covered by Law No. 13 of 2006 or to Ministry of Industry and Minerals/Industrial Development Authority pursuant to Law No. 20 of 1998, Industrial Investment Law for Private and Mixed Sectors as amended.<sup>3</sup> However, investors not covered by Law No. 13 can submit their applications to the Industrial Development Authority to be covered by Law No. 20.

### ➤ **PRIVILEGES AND GUARANTEES OF INVESTMENT LAW NO. 13 OFFERED TO INVESTORS**

Major privileges and guarantees offered to investors under the Investment Law No. 13 of 2006 include:

- Repatriation in hard currency of profit and capital brought into Iraq.
- Trading in the Iraqi Stock Exchange market.
- Leasing land needed for the project or using it on condition that the term does not exceed a period of 50 years that can be renewed.
- Insuring the investment project at any national or foreign insurance company.
- Opening accounts in Iraqi Dinar or foreign currency or both at Iraqi banks or at banks outside Iraq.
- Obtaining residency and facilitating investors' entry to Iraq and departure from Iraq.
- Non-confiscation or nationalization of the investment project.
- Non-Iraqi workers have the right to transfer their salaries and indemnities outside Iraq.
- Exemption from fees and taxes for ten years beginning with the date of starting the project. This period is renewable. Also, furniture and assets needed for expanding and modernizing the project are exempt from import duties.
- Exemption period may be extended up to 15 years in case of foreign and Iraqi partnership.

### **INVESTOR COMMITMENTS**

- Informing the commission of the date of starting work on the project.
- Maintaining accurate book-keeping checked by an authorized auditor.
- Presenting economic and technical feasibility studies with maps related to the project.

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2. As per Article 1 (Third) of the Investment Statue No.2 of 2009.

3. Provisions of Law No. 20 for 1998 cover only Iraqi Industrial Investors, but an amendment law has been drafted to include the coverage of foreign industrial investors by the said law as well.

- Keeping a record of imported materials, protecting the environment, and commitment to qualitative control systems.
- Complying with Iraqi laws and the action plan methodology presented by investors.

### **AREAS OF INVESTMENT**

The law opened most areas of investment to Iraqi and foreign investors. Exceptions are the extraction and production of oil and gas, and the banking and insurance sectors. A separate hydrocarbon law is contemplated<sup>4</sup>, and financial services fall under their own legislation and regulations<sup>5</sup>.

Land cannot be owned by foreigners except for housing projects under the condition that the housing units are sold to Iraqis on project completion. For other projects the lease period is fifty years, renewable.

#### **➤ PRIVILEGES AND GUARANTEES OF INDUSTRIAL INVESTMENT LAW NO.20 OFFERED TO INDUSTRIAL INVESTORS**

- Industrial projects existing before the date at which this law came into force (with its 4th amendment) shall be exempted from all taxes and duties (except for income tax and fees imposed on the production of cigarettes, beer and liquors) including the share of the workers determined according to the Law of Distribution of Corporate Profits No. 101 of 1964, for a period of ten years, taking into account provisions of Paragraph Third of Article Eight of the said law..
- Industrial projects which obtain the incorporation license after the enforcement of this law shall be exempted from all taxes and duties (except for income tax and fees imposed on the production of cigarettes, beer and liquors) including the share of the workers determined according to the Law of Distribution of Corporate Profits No. 101 of 1964 for a period of ten years as from the date of obtaining the incorporation license,.
- Also, project's annual profits are exempt of income tax for a period of five (5) years, in accordance with percentages ranging between 10% and 30% of net profit, depending on the degree of development of the region where the project is erected from the first year profit is achieved after being licensed, or from the date of entry into force of this Act for the existing projects and half of these percentages in the next five years as follows:
  - Individually owned projects or those belonging to companies (except for joint stock companies)
    - 10% in developed cities,
    - 20% in less developed cities, rural areas and remote villages
  - Projects belonging to joint-stock companies (except for joint stock companies of the mixed sector):
    - 15% in developed cities,
    - 25% in the less developed cities and rural areas and remote villages
  - Mixed sector companies:

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4. Draft Oil and Gas Law is still under discussion at the Council of Representatives (Parliament).

5. Foreign investments in the banking sector are governed by the Banking Law No. 94 of 2004, while branches of foreign insurance companies are governed by the Insurance Regulatory Law No. 10 of 2005.

- 20% in developed cities
- 30% in the less developed towns and rural areas and remote villages.
- Reserves withheld from project profits which are devoted to the development or expansions are exempt from income tax at the rate of (25%) of the total annual profits (before tax) maximum.
- Relevant government agencies shall allocate state-owned lands needed for the industrial project, within the basic cities master plan, and supply them with necessary services and lease them to the project owner for a period that ends with validity date of the licence of incorporation not taking into account the provisions of law on the Sale and Lease of State Property No. (32) for 1986.
  - machines include the expansion and development of land and buildings necessary exemptions and privileges contained in the law for ten (10) years from the date of the actual production of direct.
- Machines for the expansion and development, land and necessary buildings are covered with exemptions and privileges contained in the law for ten (10) years from the date of the actual production.
- If the investor owns an agricultural land or has the right to use it, then he can establish an industrial project on it provided that the environmental conditions required are met and that the project is not harmful to health.

## **INVESTMENT COMMISSIONS IN IRAQ**

The law stipulates the formation of two kinds of investment commissions in Iraq: The National Investment Commission is responsible for the formulation of the national policy for investment, the development of plans and controls, and monitoring the application of same. It is exclusively responsible for strategic investment projects of federal nature<sup>6</sup>. The chairman has the rank of Minister and his deputy in the rank of deputy minister. The board includes in addition to the chairman, his deputy, and 4 public sector officials, three representatives from the private sector chosen by the prime minister.

Because Iraq adopted a federal structure through the law on the formation of regions, the investment law has also provided for the establishment of commissions at the regional and governorate level. The regional and governorate commissions will have the power to grant investment licenses (except for strategic projects of federal nature), encourage investment, and open local branches in areas under their jurisdiction in consultation with the National Investment Commission. The local investment plans must not contradict the federal investment plans.

The governorate commission is managed by a board of directors of seven members including the chairman (DG rank) and his deputy. The board includes three private sector members.

All Iraq's fifteen governorates (provinces) within the federal government<sup>7</sup> have already established their provincial investment commissions (PIC). The Kurdistan Region has its

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6. See definition of Strategic Investments in Article 4 (Second) of the Investment Statue No. 2 for 2009.

7. Iraq consists of 18 governorates (provinces) 15 within the federal government and 3 within the Kurdistan Region.

own Investment Board in Erbil with two branch offices in the other 2 provinces, Dahuk and Sulaymaniyah. The Kurdistan Investment Board was established according to Investment Law No. 4 of 2006 issued by the KRG covering investments in the Kurdistan Region only.<sup>8</sup>

There is also the Industrial Development Authority under the Ministry of Industry and Minerals concerned with the development of small and medium industrial enterprises (SMEs) for both the private and mixed sectors based on the Law of Industrial Investment No. 20 of 1998 (as amended). Therefore, submission of Iraqi Industrial Investors applications is centralized and it must be done at MIM's Industrial Development Authority in Baghdad.<sup>9</sup>

For more information on the industrial and investment opportunities available in this area, visit the website of the Ministry of Industry and Minerals ([www.industry.gov.iq/investments](http://www.industry.gov.iq/investments)) and the website of the National Investment Commission

Also, visit Karbala Investment Commission website ([www.krinves.com](http://www.krinves.com)).

## **EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT**

The new Gol investment law allows for foreign investors to trade in shares and bonds listed in the Iraqi Stock Exchange (ISX). It also allows foreign investors to form investment portfolios. The ISX is governed by law # 74 of 2004 Interim Law on Securities Markets. From June 2004 till March 2009 Trading transactions and buy and sell orders were written manually on grease boards in trading sessions. This system did not allow for full transparency in terms of timing of market participants or knowledge of who has placed the bid. Electronic Trading started on April 19, 2009 in cooperation with NASDAQ-OMX. The ISX operates under the oversight of the Iraq Securities Commission, an independent commission. The automation of the ISX will provide much greater transparency as well as pave the way for foreign investment on the exchange. In addition, a new permanent securities law is being drafted as well as rules and regulations for the Iraq Securities Commission (ISC).

As of December 20, 2010, the number of listed companies at the ISX reached 85 with an average trading volume of about USD 5 - 7 million weekly.

## **EXPROPRIATION AND COMPENSATION**

Iraqi law affords protection to foreign investors from expropriation. Article 23 (Second) of the new Constitution prohibits expropriation in Iraq, unless it is "for the purpose of public benefit in return for just compensation." The constitutional provision further stipulates that this provision shall be regulated by law. Although this provision offers protection to foreign investments, a law has yet to be considered. Article 12 (Third) of the new Iraqi investment law also guarantees, "non-seizure or nationalization of the investment project covered by the provisions of this law in whole or in part, except for a project on which a final judicial judgment was issued."<sup>10</sup>

## **DISPUTE SETTLEMENT**

While the law of domestic arbitration is fairly well developed in Iraq, international arbitration is not sufficiently supported by Iraqi law. Iraq is a signatory to the Arab League Convention

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8. For Kurdistan Investment Law incentives go to [www.kurdistaninvestment.org](http://www.kurdistaninvestment.org).

<sup>9</sup> The provisions of this law cover Iraqi industrial investors only. But, the MIM is making tremendous efforts to amend this law to include foreign investors in addition to other amendments.

10. The Iraqi National Investment Commission has become a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA).

on Commercial Arbitration (1987) and the Riyadh Convention on Judicial Cooperation (1983), but it has not signed or adopted the two most important legal instruments for international commercial arbitration: The United Nations New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (1958) (commonly called the New York Convention) and the attendant rules and procedures established by the UN Commission on International Trade Law (UNCITRAL).

Dispute resolution is laid out in Article 27<sup>11</sup> of the new investment law, which details the rights of Iraqis and foreigners with respect to Iraqi law. Domestic arbitration is also provided for in Articles 251-276 of the Iraqi Civil Procedure Code. Arbitration agreements must be in writing. Panels of arbitrators are available through the Iraqi Union of Engineers, the Iraqi Federation of Industries, and private arbitrators.

[www.investpromo.gov.iq](http://www.investpromo.gov.iq)

## **BILATERAL INVESTMENT AGREEMENTS AND REGIONAL COOPERATION**

Iraq is signatory to thirty-two bilateral, and nine multilateral agreements within the Arab League, with respect to Investment Promotion and Protection (IPPA). There are also existing bilateral agreements with India, Iran, Japan, Jordan, Kuwait, Mauritania, Republic of Korea, Sri Lanka, Syria, Tunisia, Turkey, the United Kingdom, Vietnam and Yemen amongst others. In addition, Iraq has bilateral free trade area (FTA) agreements with UAE, Oman, Qatar, Algeria, Egypt, Jordan, Lebanon, Syria, Tunisia, Yemen, and Sudan. On July 11, 2005, Iraq and the U.S. signed a Trade and Investment Framework Agreement (TIFA) as a first step toward creating liberalized trade and increasing investment flows between the U.S. and Iraq.

Apart from the relevant provisions of national legislation, and in addition to the above mentioned, Iraq is a signatory to or a member of many other bilateral and multilateral agreements).

## **FREE TRADE ZONES AND PORTS**

The Free Zone Authority Law No. 3/1998 (FZL) permits investment in Free Zones through industrial, commercial, and service projects. This law operates under the Instructions for Free Zone management and the Regulation of Investors' Business No. 4/1999. Under the Free Zone Authority Law, goods imported and exported from the FZs are exempt from all taxes and duties, unless imported into Iraq. However, this exemption does not apply to the Reconstruction Levy (CPA Order No. 54). Capital, profits, and investment income from projects in the FZ are exempt from all taxes and fees throughout the life of the project, including in the foundation and construction phases. The application process for an investor involves submitting an application and a fee of US\$100 to the Free Zone Authority. The investor must sign a lease within 30 days of lease approval.

## **IRAQ'S BANKING SYSTEM**

### **HISTORICAL BACKGROUND**

Rafidain Bank, the biggest Iraqi state-owned bank was founded in 1941 and was originally a privately-owned bank. By the early 1960s the following banks were represented in Baghdad: Ottoman Bank; the Eastern Bank (British owned); the British Bank of the Middle East;

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11. Article 27 of the Investment Law No. 13 states: "Disputes arising between parties who are subject to the provisions of this law shall be subject to the Iraqi law unless otherwise agreed....."

Federal Bank of Lebanon; National Bank of Pakistan; Arab Bank; Intra Bank (Lebanon); and the Iraqi banks, Rafidain, Commercial Bank, Credit Bank and Bank of Baghdad. In 1964 a wave of nationalizations took place and banks were seized and merged into four groups – Rafidain, Commercial, Bank of Baghdad and Credit Bank. In 1970 a further consolidation took place, with banks merged into either Rafidain or Commercial, and in 1974, the Commercial group was put under the Rafidain banner, leaving the country with one state-owned bank. On January 1, 1989, the Rasheed Bank was spun off from Rafidain.

Following the Gulf War of 1991, the government once again allowed the establishment of private banks. Indeed, the motive for establishment of these banks was an attempt to reach some of the vast majority of small businesses in Iraq. The state-owned banks alone were allowed to lend to state-owned enterprises.

By September 2009 the Iraqi banking system consisted, in addition to the Central Bank, of seven state owned banks, 30 private banks, and 6 operating foreign banks.

The CBI has recently decided to raise the minimum capital requirement of banks to IQD 250 billion and asked existing banks to adhere to this within three years (by 2012).

# 3. THE REGULATORY FRAMEWORK

## TRANSPARENCY OF THE REGULATORY SYSTEM

Potential investors in Iraq face complex procedures under various laws, regulations and administrative requirements. However, the government intends to begin a program to reduce such difficulties, and the new investment law was the first step in that direction. In addition, Iraq intends to improve and simplify various procedures for obtaining investment licenses and project establishment licenses and permits, and expects the new National Investment Commission to lead the way.

## INSTITUTIONAL FRAMEWORK

According to the Investment Law No. 13 of 2006, an investor is required to apply to the NIC or a PIC for an investment license to start a business in Iraq. An investment license is issued within forty five (45) working days if the application form is properly completed.

Investment Regulations No. 2 of 2009 have set the minimum investment limit not be less than USD 250,000/-.<sup>12</sup>

As mentioned previously, the Law allows both foreigners and Iraqis to invest in all activities, except those relating to Oil Extraction & Production and Banks & Insurance companies. Ownership of land is not allowed for foreigners. Foreign investors may, however, lease land for up to 50 years renewable. They can, however own land for housing projects on the condition that the housing units shall be allocated for ownership by the Iraqis after completion of the project.

In addition, Iraq imposes no limit on equity ownership. Foreign ownership of up to 100% is allowed. Investors are also free to bring in and take out their capital.

## THE ONE-STOP-SHOP

The One-Window (One Stop Shop) is a requirement of the new Iraqi legislation. Current legislation places the One-Stop-Shop within the National Investment Commission (and Provincial Investment Commissions) linked to the Prime Minister and suggests a strong model with the authority to issue investment licenses.

In setting up the OSS within the NIC and PICs, it was expected that all investment-related issues would be handled by the NIC and PICs through the “One-Stop-Shop”. This means having all services such as licenses and permits, immigration, customs, land, utilities, etc would be processed by NIC or PICs.

For the time being, the NIC OSS is only handling investment applications and facilitating visa issuance for potential investors who contact the NIC<sup>13</sup>.

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12. Iraqi investors with Industrial investment projects which are not covered by Law No. 13 may apply to the Ministry of Industry and Minerals – General Directorate of Industrial Development to receive incentives under Law No. 20 of 1997 Industrial Investment Law for Private and Mixed Sectors.

13. Item First/b of Article 25 of the Investment Statue No. 2 of 2009 sets out the powers of relevant ministries representatives within the OSS to include taking decisions relating to the Investment License only, thus limiting the possibility of providing other services related to other licenses and permits required by the investor.

## PROTECTION OF INTELLECTUAL PROPERTY RIGHTS (IPRS)

This section discusses the processes needed to register patents, trademarks, industrial designs, and copyrights.

### PATENTS

Iraq's patent law and procedures are similar to the laws and registration procedures of many other countries.

The Ministry of Planning and Development Cooperation administers the country's patents law— "*Patents, Industrial Design, Undisclosed Information, Integrated Circuits and Plant Variety Law.*"<sup>14</sup> This law covers inventions and innovative ideas in technology, products, and manufacturing processes.

The government registers patents in the inventor's name unless the product is patented in another country. If this is the case, the government will register the patent in the name of the company, organization or association that owns it. The government grants patents for a twenty-year period from the application date

### Variants

**Chemicals.** For pharmaceuticals and/or agricultural chemicals containing new substances, the Ministry requires test data and any other available data it may deem necessary for granting market access. The Ministry shall protect such data from unauthorized commercial use until five years after approval to market the products. The Ministry will also protect the data from disclosure except if the disclosure is necessary to protect the public or if the Ministry takes the necessary precautions to guarantee unclassified commercial use of such data.

**Integrated Circuit Designs.** Integrated circuit designs are recorded separately at the Register of Integrated Circuit Designs of the Ministry of Industry and Minerals. Applicants must provide information related to product design. Applicants must also provide patent holder names and addresses and any information regarding any relevant certificates issued for the integrated circuit designs. The protection of integrated circuit designs extends to foreigners, whether natural or juridical persons, on a basis no less favorable than that afforded to Iraqi nationals.

**Plants.** Iraqi law protects new varieties of plants. The Ministry of Agriculture maintains a Register of New Plant Varieties containing data related to new plant varieties. The term of protection is set at twenty years from the date of application, except for trees and vines, which may be protected for twenty five years. Rights to protected varieties are heritable.

### TRADEMARKS

An investor may transfer a registered trademark. He/she may also license a trademark. There is no provision for compulsory licensing of trademarks. Iraqi law protects registered trademarks for ten years, renewable indefinitely for a further 10 years in the last year. The

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14. The current competent authority is the Central Organization of Standardization and Quality Control (COSQC), which is a department at the Ministry of Planning and Development Cooperation (MOPDC). Plant Variety is covered by the Ministry of Agriculture. CPA Order No. 81 proposes three separate IP registries but nothing has been done about moving these registries/functions to the designated organizations. The issue has been addressed by a special committee at the PM's office, which recommended establishing one central department as a sole competent authority for all IP related areas. There is, under discussion, a comprehensive IP draft law in compliance with WTO requirements.

owner may apply for renewal within six months of the expiration date. The ownership of the trademark cannot be contested if it has been in use for five years.

### **INDUSTRIAL DESIGNS**

Approvals pertaining to industrial designs or models shall be granted where the design or model is new or original. The Ministry of Planning and Development Cooperation is the responsible Ministry with respect to Industrial Design registration. Designs are protected for a period of ten years

### **COPYRIGHTS**

Iraqi copyright law is intended to meet the current internationally recognized standards of protection. The Copyright Committee at the Ministry of Culture is responsible for copyright registration.

### **UPCOMING NEW TRADE RELATED LEGISLATIONS**

The GOI is in the process of developing a new intellectual property rights (IPR) law in line with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), but the exact structure of this and related legislation is still being determined:

**Intellectual Property (IP).** Iraq has a comprehensive draft IP law in compliance with the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement). The proposed legislation is undergoing the review process for ultimate passage in parliament. The GOI has submitted its completed ACC/9 and the draft IP law to the WTO.

- **Technical Barriers to Trade:** Iraq has a draft WTO-compliant TBT law which is undergoing review for ultimate passage in parliament. The legislation calls for Iraq to adopt international technical regulations, standards and conformity assessment procedures when these are effective in fulfilling Iraq's legitimate objectives. The GOI has submitted its completed ACC/8 (for TBT) and the draft TBT law to the WTO.
- **Agriculture:** Iraq is in the process of preparing a revised ACC/4 for submission to the WTO.
- **Sanitary and Phytosanitary Measures:** Iraq is reviewing its laws and drafting the necessary legislation to comply with the WTO Agreement on Sanitary and Phytosanitary Measures.

**Services.** Iraq is currently reviewing its services regime with an eye towards further reform in opening up service sectors. Iraq is also in the process of preparing its ACC/5, for tourism, financial, telecommunications and transportation services.

Iraq is also a member of several international intellectual property conventions, and of regional or bilateral arrangements.

### **IRAQ'S WTO ACCESSION**

Iraq is struggling hard to join the World Trade Organization (WTO). Iraq is currently participating in the meetings of the World Trade Organization as an observer.

# 4. ESTABLISHING A BUSINESS

## BACKGROUND/GOVERNING LAWS

Iraq's Commercial Law No. 30 of 1984 (Articles 5 to 15) regulates all 'trading activities' undertaken by the Iraqi public and private sectors. 'Trading' is defined as for-profit economic activities in a wide range of industry sectors including importing/exporting, manufacturing, logistics and transportation, construction, tourism, banking, insurance, buying and selling of securities and stocks and contracting.

The Commercial Law differentiates between two categories of 'traders'. These are:

**Retail trader** — a natural person who carries out commercial activities that are registered in his/her own name. He/she is a sole trader, buying and selling as an individual or as an intermediary. Retail traders/natural persons' activities are governed by Commercial Law No. 30 of 1984.

**Legal trader** — a legal entity or company: Legal traders' activities, i.e. companies', are governed by Companies Law No. 21 of 1997 as amended by CPA Order No. 64 which was issued in February 2004.

## FORMS OF BUSINESS

This section of the Investor Guide categorizes the types of businesses that can be registered in Iraq in accordance with the Companies Law. They are as follows:

### COMPANIES

Companies Law no. 21 for 1997 as amended lists the following types of companies:

#### Joint stock companies—private or with state shareholding

Joint stock companies must be formed by at least five natural or legal persons. They offer shares through public subscription. All shareholders are responsible for company debts to the extent of the value of their respective shares.

#### Sole Proprietorships

Sole proprietorships may be established by a single natural person. In sole proprietorships the owner assumes personal, unlimited liability. In Iraq a sole proprietorship is called a "sole owner enterprise".

#### Joint liability companies

Joint liability companies are formed by a number of investors ranging between two and twenty five natural or legal persons. Owners participate in proportion to their respective quotas and they have unlimited personal liability.

### Simple companies

Simple companies are established by a number of investors ranging between two and five, each of whom contributes capital to the company in the form of cash or in kind. The Companies Law requires simple companies to have notarized incorporation papers. Simple company's owners must deposit a copy of the incorporation document, delineating the shareholders and their shares with the Iraqi Office of Company Registration (OCR) at the Ministry of Trade (MoT).

### Limited companies - private or with state shareholding

The Companies Law stipulates that limited companies can be established by no less than two and no more than 25 founders. Founders of a limited company may be natural or legal persons and are responsible for company debts to the extent of the nominal value of their respective shares. A mixed company may be formed by agreement between one or more legal persons from the public sector and one or more from other sectors, i.e., private, mixed, and/or cooperative, provided that public sector shares represent no less than 25 percent of the total company capital. If the percentage of state-owned shares falls below 25 percent, the company is considered a private company. Limited liability companies may also be established by a single natural or legal person.

## COMPANY REGISTRATION PROCEDURES

- Notarized Power of attorney to a lawyer empowering him to carry out establishment procedures.
- Reserve the Company trade name at the relevant Chamber of Commerce and the Union of Chambers of Commerce.
- Founding shareholders sign a contract in which they clarify company's activity and relationship among partners and contract obligations with others.
- Deposit company's capital in Iraqi Dinars in an authorized bank in Iraq and notify the Office of Companies Registrar (OCR).
- A copy of passport for foreign founders or Iraqi ID for Iraqi founders as well as for the representative authorized to lodge the application to the OCR (while submitting the original to OCR later to verify the authenticity of the copy).
- Establishment forms to be completed and signed by founders or their legal representative with founders' addresses, emails and phone numbers.
- Pay processing charges to OCR.
- If the application is to establish a joint stock company (JSC), a feasibility study should be submitted to OCR along with a document signed by the founders showing their subscriptions in the company and a bank document showing the deposited subscription amounts.
- The economic activity of the company should be mentioned and included in the contract of incorporation.

In the event that the company's activity includes communications then the Ministry of Interior is approached. If the activity of the company is escorts and security services, then the Ministry of Interior and the Minister of State for National Security Affairs are approached. In case the activity of the company is mine removal, then Ministry of Defense and the Ministry of Environment and the Iraqi National Intelligence Service and the Ministry of Interior and the Minister of State for National Security Affairs

- The company may issue bylaws to organize its work and the relation among members and others.
- Nomination of a legal consultant for the company (attorney) according to a letter from the Iraqi Lawyers Syndicate.
- Nomination of a chartered accountant from Iraqi Union of Accountants and Auditors.
- Nomination of the managing director.
- All foreign shareholders in the company are obliged to get permission of the Ministry of Interior. This process is completed by OCR directly.

Only joint stock companies, mixed or private, can issue publicly traded stock. The founders of a mixed joint stock company shall subscribe to not less than 30% and not more than 55% of its nominal capital and it must include a minimum of 25% for the state (public) sector.

Founders of private joint stock companies must subscribe at least 20% of the initial capital, and offer the remaining shares through an initial public offering within 30 days of company approval. Private joint stock companies issue a public offering through an announcement to be published in the Bulletin of OCR and at least two daily newspapers in Iraq. This takes place after receiving the OCR approval to do so. If the OCR finds the company's documents potentially misleading to investors it refers the case to the Securities Commission.

For joint stock companies, limited liability companies, and sole proprietorships, the capital must be paid up before the issuance of the certificate of establishment.

#### **Time needed**

The time that the investor needs to complete all steps mentioned above is estimated to be:

- Approximately two months for a joint stock company.
- Approximately 20-25 days for all other company types<sup>15</sup>.

#### **FINANCIAL CONTROLS**

A controller, assigned at the company's general meeting, controls and audits private companies' accounts. Audits and other financial reports are generally subject to

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<sup>15</sup> In case one of the founders is a non-Iraqi citizen or the company activity is communications, or escorts and security, or mines removal then the time needed to complete all procedures shall be longer than the period mentioned above.

acceptance by shareholders at the company's annual meeting. For joint stock companies, annual reports and audited results must be signed by the Chairman of the Board and the managing director. At other companies the managing director is the responsible officer. The Board of Supreme Audit (BSA) governs mixed companies' accounts.

### **REGISTRATION OF A TRADE REPRESENTATION OFFICE OR A BRANCH OF A FOREIGN COMPANY**

Foreign entities interested in registration to practice business in Iraq have to complete documents in The Office of Companies Registrar (OCR) according to a form prepared by the Ministry of Trade and submitted to OCR in two copies. OCR will keep one copy and the other will be returned to the applicant with a signed check list.

OCR reviews the application to make sure of completeness. If complete OCR provides the applicant with a check list (after the fees are paid) in which it shows that all required documents have been received. Accepted applications are officially registered in the Company Register.

#### **Time needed**

The time needed by OCR to process the investor's application for a registration certificate for a trade representation/branch office by the OCR is estimated at ten days. The whole process is estimated to take approximately 15 days.

#### **Investor appeal process in case of rejection of the application.**

If the OCR refuses an investor's application to establish a business (or to obtain a company registration certificate or foreign company representative office or branch), the investor may appeal his/her case to the Minister of Trade within 30 days of application rejection. The investor must submit a letter to the Minister detailing the reasons why their application was rejected and also the response and/or actions to correct their status. If the Minister of Trade rejects the appeal, the investor may then appeal to the relevant court of first instance within 30 days of notification.

## **LABOR**

The GOI has drafted a new labor law, which is under review by the Prime Minister's cabinet. Current Iraqi labor law remains weak in promoting a flexible, business-friendly employment environment.

Iraq is a party to both International Labor Organization (ILO) Conventions related to youth employment, including child labor abuse.

The new investment law states that priority in employment and recruitment shall be given to Iraqis, but does not establish any quotas. However, the NIC shall observe, when granting an investment license, that the number of local employees should not be less than 50% of the project total employment<sup>16</sup>. In addition, foreign investors are expected to help train Iraqi employees as well as to raise their efficiency, skill, and capabilities. Separate from the new law, there are existing labor-related requirements for foreign companies employing Iraqi or foreign workers.

### **CURRENT EMPLOYMENT ISSUES**

The existing Saddam-era law includes regulations that require revisions, including: benefit clauses, working conditions for foreign expatriate workers, and rules governing working hours. The Ministry of Labor and Social Affairs (MOLSA) also sets a minimum monthly wage for unskilled workers. In addition, according to Iraqi law, all employers must provide some level of transport, accommodation, and food allowances for each employee. The law does not fix allowance amounts.

There are also requirements for foreign companies employing Iraqi or foreign workers. The investor must notify relevant investment commission and the Ministry of Labor and Social Affairs (MOLSA) when he employs Iraqi or foreign workers, when the job ends and when there are vacancies, among other requirements. There are also work permit requirements for hiring expatriate employees.

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16. As per Item 1, Article 30 of Investment Statue No. 2 of 2009.

## ACQUIRING LAND/SITES FOR INVESTORS

The ownership of Government land depends on many factors. A large proportion of the land is owned by the Ministry of Finance but certain Ministries control certain types of land. In this area, the roles of the Governorates and Municipalities are important and must be considered by the investor.

Several legislations govern land acquisition in Iraq, but the main ones are:

- Law No. 35, 2002, Law of Public Roads
- Law No. 45 of 1980, which regulates procedures of purchase and sale of private lands by judicial decisions
- Law No. 30 of 2000, Organization of Industrial Services and implementing regulation No. 9 of 2000, which governs the lease of state land for industrial services projects
- Law No. 3 of 1998, Commission of the Free Zone Administration and implementing regulation No. 4, 1999
- Law No. 20 of 1998, Industrial Investment for the Private and Mixed<sup>17</sup> Sectors, which regulates the lease of state land for Iraqi industrial projects producing consumer and capital goods
- Law No. 32, 1986, Selling and Leasing of State Properties<sup>18</sup>

## IDENTIFYING LAND

Investors have several choices with respect to locating land for industrial and commercial projects in Iraq. Investors with industrial projects may lease land in government industrial estates and free zones. Investors with non-industrial projects may lease land within a free zone, or government land outside the industrial estates via an auction process. Iraqi investors may purchase government land for non-industrial projects via an auction process. Iraqi investors may purchase or lease property for non-industrial projects from the private property market. While foreign investors may lease property for non-industrial projects from the state or private property market, ownership of private property is still not allowed except for housing projects as stated in Law No. 13 for 2006, Regulations No.2 for 2009, and Regulations No. 7 for 2010

## Government Land

### 1. Leasing Government Land in Industrial Estates

No single agency manages Iraq's industrial estates. Instead, a number of ministries and government agencies play a role in the country's industrial estates.

- **Ministry of Industry and Minerals (MoIM)**, through its Industrial Development Authority and General Establishment of Geological Exploration for Mining and Quarrying
- **Ministry of Labor and Social Affairs (MoLSA)**, through its Directorate of Labor and Social Security, which is responsible for industrial services projects

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17. Mixed enterprises are those in which the state has a 25% or greater stake.

18. The first amendment to Investment Law No. 13 issued on January 4, 2010 stipulates that all projects (investors) governed by this law are exempted from Law No. 32 of 1986 Selling & Leasing of State Property Law.

- **Amanat of Baghdad (Mayorality) and governorate and municipal governments** are responsible for utilities such as water and sewerage and licenses for site development within the country's industrial estates.

## 2. Leasing Land in Government Free Zones

Iraqi legislation treats free trade zones differently than industrial estates. The following legislation governs free trade zones in the country:

- Free Zone Law No. 3 of 1998
- Instruction No. 4 of 1999 on the Administration of Free Zones
- Regulations of investors' activities in free zones

Law No. 3, Article 1 identifies the General Commission of Free Zone Administration under the Ministry of Finance as the competent Free Zones Authority Instructions No. 4, 1999; Article 4(4) permits investment in Free Zones for industrial, commercial, and service projects.

## 3. Leasing Government Land outside of Industrial Estates and Free Zones

Investors covered by Investment Law No. 13 of 2006 shall enjoy the privilege of renting or leasing lands needed for the project for a period not to exceed (50) fifty years renewable<sup>19</sup>.

Other investors not covered by the said Investment Law may lease government land outside of Iraq's industrial estates for residential, commercial, or agricultural purposes. Law No. 32 of 1986, "The Law of Sale and Lease of State Properties," as amended governs the purchase or lease of this land. Iraqi and foreign investors may lease government land outside industrial estates<sup>20</sup>.

## 4. Purchasing Government-Owned Land

The government also sells land outside industrial estates through a public auction process. Since Iraqi law forbids foreigners from purchasing government land only Iraqi citizens have access to sale auctions<sup>21</sup>. As with lease auctions, industrial zoned property is excluded from the sale auction process since industrial projects may only locate in Iraq's industrial estates.

The committee sets an auction date and advertises it in the relevant local newspaper. In the advertisement the committee describes the property, notes its assessed value, and indicates the auction day, time, and venue. The advertisement includes an explanation of participation procedures.

### Purchasing or Leasing Land from the Private Property Market

Iraqi investors have the right to buy and/or lease property from the private real estate market for residential, commercial, or agricultural use, while foreign investors may only lease property from the private real estate market. Twenty percent of Iraqi land is in the private property market, the majority of it residential. According to current law, foreigners may lease property in the private market for a period not to exceed 50 years renewable. Iraq does not yet host large international real estate companies; however, there are numerous small real estate agents in the country.

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19. Item (Third) Article 11 of the said Investment Law.

20. On April 1, 2011 the first amendment to Investment Law No. 13 was issued. It shall enable foreign investors to own land for housing projects provided that the housing units are sold to Iraqis on completion of the project. Also, the amendment law excludes implementation of Law No. 32 of 1986 "The Law of Sale and Lease of State Properties" for Iraqi and foreign investors covered by Investment Law No. 13 for 2006.

21. See Footnote 20 above

# COMMUNICATIONS

## TELECOMMUNICATIONS

### Telecommunications networks in Kirkuk

#### 1. Land lines network

#### 2. Wireless

- Fanus Co.
- Kalimat Co.

#### 3. mobile phone lines

- Zain Iraq
- MTC Atheer
- Asia Cell

#### 4. internet service

In Kirkuk Province, there are some privately owned internet providers in addition to networks run by Ministry of Telecommunications. In Baghdad districts, internet cafés are spreading.

## HOW TO OBTAIN AN ENVIRONMENTAL COMPLIANCE CERTIFICATE

The statement of opinion about the validity of investment projects sites depends on the environmental regulations for establishing industrial, agricultural, and services projects approved by the Council of Environment protection and improvement in its session numbered (14) for the year 1990, which include the determinants of locational and environmental requirements which must be met when implementing the project, as well as instructions subsequent to the illicit activities described in the instructions referred to above and issued by the Council and the Ministry of Environment under the powers granted to the minister.

Some activities have their specificity and there are laws or regulations or instructions or decisions that govern them. Therefore they should be taken into consideration when examining request for the allocation of land, for example, the law of mineral investment for the diggers, and the law organizing the slaughter of animals for the Ministry of Agriculture, and rules for the establishment of projects on agricultural land etc.

The environmental instructions included classification of projects into three categories (A - B - C) as follows:

### Environment Polluting Activities Category (A)

Those activities with severe pollution to the environment and include industrial or agricultural super projects which has several influences on the quality of the environment and effects large areas, therefore, they must be kept farther distances from cities master plans and expand to cities and districts, counties and villages candidated for development under a the rural settlement plan with the requirement of providing all the treatments that provide adequate protection for the environment .

### Environment Polluting Activities Category (B)

Those activities polluting to a lesser degree than in Category (A) and include Industrial, agricultural, or other sources that result in contamination of sites which can be controlled. Therefore, they can be established within the borders of the cities master plans and within the plots allocated for them provided that treatment units are installed according to the instructions and rules. In case control of pollution (odors, and the like) is out of hand, the project should be located outside the boundaries of cities master plans and according to the determinants of the type of activities mentioned in the detailed instructions.

### Environment Polluting Activities Category (C)

Those remaining human activities which result in simple contamination that can be treated i.e. industrial factories that do not result in a significant contamination and small-scale agriculture and residential complexes, hotels, hospitals, resulting in pollution of organic content mainly that can be treated easily through the processing units, thus can be established within and outside the borders of cities master plans, without any limitation, in accordance with instructions and allow farm owners to set up environment non-polluting industries within their farms.

After receiving the approved Environmental Compliance Certificate, the investor can proceed with the construction and/or start business activities. The Ministry will inspect and monitor compliance report from the Investor.

## **OPERATING**

The most important procedures that investors must complete on an ongoing basis once operating in Iraq are tax payment, social security, import/export procedures, and complying with currency controls. There are significant issues in all three of these areas but by far the most important are those relating to import and export procedures.

Functionally, taxation and customs areas are regulated by the Ministry of Finance through two independent agencies: The General Taxation Commission (GTC) and The General Commission of Iraqi Customs (GCIC). Both these agencies have regional and governorate branches throughout Iraq. Currency matters are generally dealt with by the Central Bank of Iraq (CBI). (See flowchart on last page – Procedures for Operation).

## **TAXATION**

This section deals with taxation for projects not governed by Investment Law No. 13 for 2006 and Industrial Investment Law for Private and Mixed Sectors No. 20 for 1998 as amended. Investment projects governed by the said laws are exempt from payment of taxes for several years mentioned in the said laws.

There are four types of taxes in Iraq: corporation tax; personal income tax; real estate tax; and leased land tax. All taxes due are a legally binding obligation on the taxpayer. The tax assessment and payment process is usually initiated by the tax liable individual reporting his income during the proceeding year on pre-printed returns to the taxation department in the area where his work or business activity is located.

### **Registration to Pay Taxes**

Companies are issued a taxpayer ID number upon being licensed by the Office of Companies Registration. Companies receive a separate tax ID number for each tax. Tax registration normally must occur within one month of starting operations. Taxes are due three months after the close of the fiscal year.

### **Corporation Income Tax**

The tax rate applied on the net income earned by all corporations after April 1, 2004 is a flat rate of 15%. As provided for in Income Tax Law 113 of 1982, the rate is levied on the income of all private sector companies, including the income of foreign companies operating in Iraq (except those exempt according to the new Investment Law).

### **Personal Income Tax**

Under CPA Order 49 of February 20, 2004, corporate and personal income taxes have been capped at significantly reduced rates of no more than 15%. Employees are entitled to basic personal income exemptions which were significantly increased in 2004, and rate bands range from 3% to a maximum of 15%. Administrative requirements with regard to collection, appeals and penalties for late payment or nonpayment of income taxes are as established in 1982 and remain in force.

### Worker's Pensions and Social Security

Before commencing operations all companies must register with the Ministry of Labor and pay a deposit toward social security withholdings based on the number of employees and estimated payroll for three months. The investor then obtains a receipt from the Ministry indicating that payments have been made. The receipt includes the company's social security number. Social security payments are then made on a quarterly basis. Social security amounts to 17% of employee salaries. The employer's contribution is 12% and the employee's is 5%. Payments are made by employers through certified checks to the Worker's Pension and Social Security Organization. The initial step of registering with the Ministry of Labor and obtaining the letter takes about one week. There are fees associated with this procedure.

## IMPORT/EXPORT PROCEDURES

### Introduction and Overview

The principal Customs law in Iraq is derived from the Iraqi Customs Law 23 of 1984 combined with CPA Orders 16 (Temporary Control of the Iraqi Borders), and 26 (Creation of the Department of Border Enforcement). Under CPA Order No. 26 the responsibility to monitor and control the movement of persons and goods in and out of Iraq rests with the Ministry of Interior's Department of Border Enforcement.

### Import Regulations and Procedures

In accordance with Orders No. 38 and 54, as amended by Order No. 70 the government of Iraq collects a 5% reconstruction levy on the total taxable invoiced value of all goods imported into Iraq from all countries, effective April 15, 2004. Exceptions to the levy are food, medicines, clothing, books, humanitarian goods, Coalition forces, reconstruction contractors, NGOs, international organizations, diplomats and Coalition governments, and goods imported under the Oil-for-Food contracts.

All persons crossing the Iraqi borders must undergo a process consisting of a visit to the Passport office and an inspection at the Customs inspection point. Imports are subject to review of the Bill of Lading and inspection of goods.

### Tariff Structure

As mentioned in the previous page, Iraq, currently imposes a 5% "Reconstruction Levy" on all imported goods except food items, medicines, books, clothing and items pertaining to humanitarian assistance. Also exempted are the coalition forces, NGOs, foreign governments and companies undertaking reconstruction work and international organizations and agencies providing assistance. All other customs tariffs, duties, import taxes and surcharges remain suspended; the only exception is the vehicle entry inspection fee of \$30 per truck.

The new Law on customs tariff, ratified by the Iraqi Council of Representatives on 12/1/2010 contained schedule of fees on imported goods according to the rates set forth in the tariff schedules and agricultural calendar thereto. .

### Customs Valuation

The reconstruction levy is assessed *ad valorem* in accordance with Article VII of the General Agreement on Tariffs and Trade 1994 (GATT), which is adopted in CPA Order 54.

### **Pre-Shipment Inspection**

Iraq does not require pre-shipment inspections.

### **Rules of Origin**

Under the Law of Customs No.23 (1984), the Director General of Customs may require a separate certificate of origin. The practice is to require such a certificate, certified by the Chamber of Commerce or similar body in the country of origin.

### **Export Regulations and Procedures**

The law applicable to exports are contained in Iraq's Customs Law Number 23 (1984) and CPA Order 54.

Exports must be by license issued by the Ministry of Trade, Department of Planning, Import-Export Section.

### **Tariff**

There are no export tariffs other than a \$35 per ton levy on scrap metal.

### **Transit Trade**

As all customs duties are presently suspended, no duties are applicable to goods in transit. Furthermore, according to CPA Order 54, the Reconstruction Levy does not apply to goods in transit.

### **Technical Regulations and Standards**

Product standards in Iraq are controlled by the Central Organization for Standardization and Quality Control (COSQC), an independent government agency. The COSQC reviews domestic goods for health, safety and quality factors. The COSQC maintains relations with international standards organizations and provides technical assistance to the offices responsible for patent and other intellectual property rights matters. Iraq currently has approximately 3000 product standards.

Iraq is a member of the International Organization for Standardization (ISO).

### **Sanitary and Phytosanitary Standards**

Phytosanitary Certificates are issued for plant products by the Ministry of Agriculture.

Animal Health certificates are issued for live animals by the Ministry of Agriculture.

Food Sanitation certificates are issued for processed food products by the Ministry of Health.

### **Trade Related Intellectual Property Regime**

Iraq is pursuing a policy of strong intellectual property protection, which it recognizes will be the engine for economic development. Iraq's intellectual property laws are being updated with the goal of bringing the country's legal regime into compliance with the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement):

- Trademarks and Indications Law No. 21, 1957 has been amended by CPA Order 80.
- Patent and Industrial Specimens Act No. 65, 1970 has been amended by CPA Order 81.
- The Copyright Law No. 3, 1971 has been amended by CPA Order 83.

Iraq is also a member of several international intellectual property conventions, and of regional or bilateral arrangements which include:

- Paris Convention for the Protection of Industrial Property (1967 Act) ratified by Law No. 212 of 1975.

- World Intellectual Property Organizations (WIPO) Convention; ratified by Law No. 212 of 1975. Iraq became a member of the WIPO in January 1976.
- Arab Agreement for the Protection of Copyrights; ratified by Law No. 41 of 1985.
- Arab Intellectual Property Rights Treaty (Law No. 41 of 1985)

### **Trade in Services**

Iraq's transition from a centrally planned to a market economy is expected to usher in a new era for the development and expansion of the services sector. The government is determined to increase the share of services in the GDP by attracting foreign investment as well as generating local resources.

There has been substantial expansion in the areas of retail services and construction since 2003. Recent policy changes in Iraq have opened up important services sectors such as financial services, insurance and telecommunications. Privatization of state owned enterprises (SOEs) is expected to further bring about fresh opportunities. In addition, Iraq's new investment laws and regulations both encourage and facilitate foreign investment, which in turn should lead to attracting capital to the services sector.

The MoT is primarily responsible for overseeing international trade in services; however various departments and agencies are involved in regulatory affairs relating to trade in services.

## **Annex to Investor guide of Kirkuk**

### **CURRENT INVESTMENT OPPORTUNITIES IN KIRKUK GOVERNORATE**

#### **First: The housing sector**

- 1 - Building a residential complex in Daquq Qadha in the southern part of Kirkuk province.
- 2 - Building a residential complex in Hawija Qadha in the southwest part of Kirkuk province.

#### **Second: The manufacturing sector**

- 3 – Establish a Cement Plant in (Srkan)

#### **Third: The health sector**

- 4 - Establishing an integrated hospital

#### **Fourth: The services sector**

- 5 - Waste Recycling project of the province.